

ESTTA Tracking number: **ESTTA277065**

Filing date: **04/09/2009**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following parties oppose registration of the indicated application.

Opposers Information

Name	KCG IP Holdings LLC		
Entity	limited liability company	Citizenship	Delaware
Address	131 South Dearborn Street Chicago, IL 60603 UNITED STATES		

Name	Citadel Investment Group, LLC		
Entity	limited liability company	Citizenship	Delaware
Address	131 South Dearborn Street Chicago, IL 60603 UNITED STATES		

Attorney information	Kevin J. O'Shea Greenberg Traurig, LLP 77 West Wacker Drive, Suite 3100 Chicago, IL 60601 UNITED STATES chiipmail@gtlaw.com, osheak@gtlaw.com, mcgradyp@gtlaw.com, dunningj@gtlaw.com Phone:(312) 456-8400		
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Applicant Information

Application No	77594659	Publication date	03/10/2009
Opposition Filing Date	04/09/2009	Opposition Period Ends	04/09/2009
Applicant	American Century Casualty Company 420 Lockhaven Drive Houston, TX 770735530 UNITED STATES		

Goods/Services Affected by Opposition

Class 036.

All goods and services in the class are opposed, namely: Insurance underwriting and insurance claims processing services in the field of non-standard auto insurance

Applicant Information

Application No	77594664	Publication date	03/10/2009
Opposition Filing Date	04/09/2009	Opposition Period Ends	04/09/2009
Applicant	American Century Casualty Company 420 Lockhaven Drive Houston, TX 770735530		

	UNITED STATES
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Goods/Services Affected by Opposition


Class 036.


All goods and services in the class are opposed, namely: Insurance claims administration in the field of non-standard auto insurance

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	3213943	Application Date	10/18/2004
Registration Date	02/27/2007	Foreign Priority Date	NONE
Word Mark	CITADEL		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 1994/08/31 First Use In Commerce: 1994/08/31 Financial services, namely, providing investment management services, investment consultation and advice, investment portfolio management services, investment brokerage services, mutual fund investment services and investment of funds for others		

U.S. Registration No.	2812459	Application Date	12/03/2002
Registration Date	02/10/2004	Foreign Priority Date	NONE
Word Mark	CITADEL		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 1994/08/31 First Use In Commerce: 1994/08/31 providing investment management services, investment consultation and advice, investment portfolio management services, investment brokerage services,		

	mutual fund investment services, and investment of funds for others
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Attachments	78501530#TMSN.jpeg (1 page)(bytes) 76471900#TMSN.gif (1 page)(bytes) CITADEL Grounds for Opposition 4.9.09.pdf (4 pages)(61465 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Kevin J. O'Shea/
Name	Kevin J. O'Shea
Date	04/09/2009

074449.014700

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Trademark Application Serial Nos. 77/594,659 and 77/594,664

KCG IP HOLDINGS LLC and)
CITADEL INVESTMENT GROUP, LLC,)
)
Opposers,)
)
v.)
)
AMERICAN CENTURY CASUALTY)
COMPANY,)
)
Applicant.)

STATEMENT OF GROUNDS UPON WHICH OPPOSITION IS BASED

As grounds for this opposition, it is alleged that:

1. Opposer KCG IP HOLDINGS LLC (“KCG”) is the owner of United States Trademark Registration No. 3,213,943 for the mark “CITADEL” for financial services, namely, providing investment management services, investment consultation and advice, investment portfolio management services, investment brokerage services, mutual fund investment services and investment of funds for others, in International Class 36, which was registered on the Principal Register on February 27, 2007, based upon application Serial No. 78/501,530 filed in the United States Patent and Trademark Office on October 18, 2004.

2. United States Trademark Registration No. 3,213,943 is in full force and effect and comprises *prima facie* evidence of the validity of the “CITADEL” mark, of KCG’s ownership thereof, and of KCG’s exclusive right to use the “CITADEL” mark in commerce and interstate commerce on or in connection with the goods or services

specified in the Certificate of Registration, and as constructive notice of KCG's claim of ownership under Title 15 U.S.C. §§ 1057, 1072, and 1115. KCG has used the "CITADEL" mark in interstate commerce, on its own and/or through its licensees, including Opposer CITADEL INVESTMENT GROUP, LLC ("CIG"), since at least as early as August 31, 1994.

3. KCG is the owner of United States Trademark Registration No. 2,812,459 for the mark "CITADEL and Design" for providing investment management services, investment consultation and advice, investment portfolio management services, investment brokerage services, mutual fund investment services, and investment of funds for others, in International Class 36, which was registered on the Principal Register on February 10, 2004, based upon application Serial No. 76/471,900 filed in the United States Patent and Trademark Office on December 3, 2002.

4. United States Trademark Registration No. 2,812,459 is in full force and effect and comprises *prima facie* evidence of the validity of the "CITADEL and Design" mark, of KCG's ownership thereof, and of KCG's exclusive right to use the "CITADEL and Design" mark in commerce and interstate commerce on or in connection with the goods or services specified in the Certificate of Registration, and as constructive notice of KCG's claim of ownership under Title 15 U.S.C. §§ 1057, 1072, and 1115. KCG has used the "CITADEL and Design" mark in interstate commerce, on its own and/or through its licensees, including Opposer CIG, since at least as early as August 31, 1994.

5. Opposer CIG is a licensee of the "CITADEL" and "CITADEL and Design" marks, and has used and continues to use the "CITADEL" and "CITADEL and Design"

marks in interstate commerce in association with the services listed in the above-identified registrations.

6. Applicant filed Application Serial No. 77/594,659 on October 16, 2008 on an intent to use basis, towards registration of the mark “AMERICAN CITADEL CASUALTY COMPANY” for insurance underwriting and insurance claims processing services in the field of non-standard auto insurance, in International Class 36. Applicant’s application was published for opposition on March 10, 2009.

7. Applicant filed Application Serial No. 77/594,664 on October 16, 2008 on an intent to use basis, towards registration of the mark “AMERICAN CITADEL CLAIMS SERVICE” for insurance claims administration in the field of non-standard auto insurance, in International Class 36. Applicant’s application was published for opposition on March 10, 2009.

8. Applicant’s “AMERICAN CITADEL CASUALTY COMPANY” and “AMERICAN CITADEL CLAIMS SERVICE” marks are confusingly similar to KCG’s registered “CITADEL” and “CITADEL and Design” marks in sight, pronunciation and sound, connotation and commercial impression. KCG’s registered “CITADEL” and “CITADEL and Design” marks are completely arbitrary and famous marks, which should be accorded great scope and broad protection.

9. CIG’s services, in connection with which CIG has used and continues to use the “CITADEL” and “CITADEL and Design” marks, and Applicant’s services for which it is attempting to register the “AMERICAN CITADEL CASUALTY COMPANY” and “AMERICAN CITADEL CLAIMS SERVICE” marks, are the same or similar. Moreover, neither the recitation of services in KCG’s senior registrations nor the

recitation of services in Applicant's junior applications exclude any particular channels of trade or classes of consumers or otherwise serve to reduce or eliminate the likelihood of confusion.

10. Accordingly, there exists a substantial likelihood of confusion between Applicant's "AMERICAN CITADEL CASUALTY COMPANY" and "AMERICAN CITADEL CLAIMS SERVICE" marks and KCG's registered "CITADEL" and "CITADEL and Design" marks, should Applicant's applications be permitted to proceed to registration.

11. Applicant's "AMERICAN CITADEL CASUALTY COMPANY" and "AMERICAN CITADEL CLAIMS SERVICE" marks are deceptively similar to KCG's registered "CITADEL" and "CITADEL and Design" marks so as to cause confusion and lead to deception as to the origin of Applicant's services. If Applicant is permitted to register "AMERICAN CITADEL CASUALTY COMPANY" and "AMERICAN CITADEL CLAIMS SERVICE", confusion in the public and trade resulting in damage and injury to both KCG and CIG may be caused and would result, by reason of the similarity between Applicant's marks and KCG's and CIG's marks. Persons familiar with KCG's and CIG's marks would be likely to buy Applicant's services, and mistake them for services marketed or sponsored by or affiliated with KCG and/or CIG. Any defect, objection or fault found with Applicant's services could necessarily reflect upon and seriously injure the reputation and goodwill which KCG and CIG have established for their own services.